

Applicants: Trammel II et al.
Application No.: 10/812,623
Filing Date: March 30, 2004
Docket No.: P-5752 (102-625)
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REMARKS

Reconsideration of the application is respectfully requested.

Claims 1-24 are in the application. Claims 14-17 and 19-24 presently stand withdrawn in view of a previous election. Through this Amendment, claim 1 has been amended.

In the Official Action, the Examiner rejected claims 1, 2, 4 and 8 under 35 U.S.C. §102(b) as being allegedly anticipated by Locke et al. (U.S. Patent No. 5,782,035).

Locke et al. is directed to a multi-purpose automatic filling and leveling fluid basin with water transfer. A basin 10 is provided in which are formed vent ports 70 (Fig. 4). Fig. 8 depicts various attachments to the basin, which may be attached via the vent ports 70. (Col. 8, ll. 9-14). A converter 166, which is shaped like a lid, may be placed on top of the basin 10, as shown in Figs. 12-14. As shown in the figures, a converter seating rim 168 is formed to extend downwardly from the converter 166.

Claim 1 is directed to a culture dish assembly which includes a culture dish and a splash guard where the splash guard includes a "frame-shaped top wall engaged on said top edge of said side wall enclosure and engagement flanges extending down from said top wall and nesting with, and interiorly of, portions of said planar panels". Locke et al. does not appear to disclose or suggest a culture dish assembly having this arrangement. It is respectfully submitted that claim 1, along with dependent claims 2, 4 and 8, are patentable over Locke et al.

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The Examiner rejected claims 1-13 and 18 under 35 U.S.C. §103(a) as being allegedly unpatentable over Lyman et al. (U.S. Patent No. 6,790,655) in view of Banes (U.S. Patent No. 5,593,891).

It is respectfully submitted that Lyman et al. and Banes are not combinable. Specifically, at col. 2, ll. 4-20, Lyman et al. criticizes the Banes' patents. Moreover, at col. 4, ll. 22-29, Lyman et al. again criticizes the Banes' patents and indicates that:

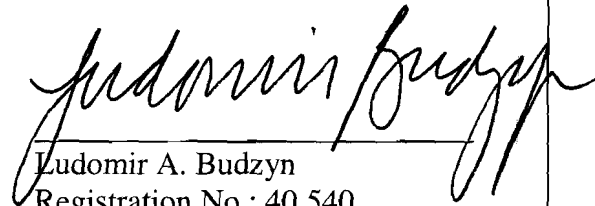
Unlike the designs shown in U.S. Pat. No. 5,591,891[sic], which have a baffle that extends inwardly and downwardly at an angle to the sidewall that prevents ready access to regions behind the baffle, the present splash-guard design affords relatively free access to all parts of the culture plate. Even with the splash-guard installed, a user can still reach every part of the culture plate with an instrument, like either a scraper tool or pipette tip.

It is clear that Lyman et al. criticized Banes and "taught away" from the use of the Banes design. As such, Lyman et al. and Banes are not combinable. It is respectfully submitted that the rejection of Lyman et al. and Banes should be withdrawn.

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Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the number listed below.

Respectfully submitted,

A handwritten signature in cursive script, reading "Ludomir A. Budzyn", written over a horizontal line.

Ludomir A. Budzyn
Registration No.: 40,540
Attorney for Applicant

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700